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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

SANDRA KIRKMAN, CARLOS  
ALANIZ, individually and successors-  
in-interest to JOHN ALANIZ, deceased,

Plaintiffs,

v.

STATE OF CALIFORNIA, RAMON  
SILVA, and DOES 1-10, inclusive,

Defendants.

Case No. 2:23-cv-07532-DMG-SSC

*Honorable Dolly M. Gee  
Hon. Mag. Judge Stephanie S.  
Christensen*

**PLAINTIFFS' NOTICE OF  
MOTION AND MOTION IN  
LIMINE NO. 1 TO EXCLUDE  
DECEDENT JOHN ALANIZ'S  
PRIOR ENCOUNTER WITH  
POLICE**

Judge: Dolly M. Gee  
Hearing: March 25, 2025  
Time: 2:00 p.m.  
Dept.: Courtroom 8C

FPTC: March 25, 2025  
Trial: April 15, 2025

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on March 18, 2025, at 2:00 p.m., in  
3 Courtroom 8C of the United States District Court for the Central District of  
4 California, at 350 West 1st Street, Los Angeles, California 90012, Plaintiffs,  
5 SANDRA KIRKMAN and CARLOS ALANIZ, hereby move *in limine* for an order  
6 excluding, at the trial of the above-referenced matter any evidence, testimony,  
7 argument, or reference at trial that on October 14, 2021, Decedent John Alaniz had  
8 an encounter with police officers unrelated to this case where Alaniz allegedly ran  
9 at a police officer, and was allegedly involved in a physical struggle with police  
10 officers in which one officer deployed their taser multiple times against Alaniz.

11 Plaintiffs make this Motion under Federal Rules of Evidence 401 and 402, on  
12 the grounds that this information is irrelevant. Plaintiffs further make this motion  
13 under FRE 404 because this evidence is impermissible character evidence.  
14 Moreover, Plaintiffs make this motion under FRE 403 because this evidence will  
15 unduly prejudice Plaintiffs, unduly consume this Court's time, and will confuse the  
16 issues.

17 **Statement of Local Rule 7-3 Compliance:** This motion is made following  
18 the meet and confer between counsel for Plaintiffs and Defendants. The Parties  
19 were unable to resolve the issues brought up in this motion.

20 This Motion is based on this Notice of Motion, the attached Memorandum of  
21 Points and Authorities, the records and files of this Court, and upon such other oral  
22 and documentary evidence as may be presented at the time of the hearing.

23 DATED: March 14, 2025

24 **LAW OFFICES OF DALE K. GALIPO**

25 By: /s/ Cooper Alison-Mayne  
26 Dale K. Galipo, Esq.  
27 Cooper Alison-Mayne  
28 Attorneys for Plaintiffs

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

This civil rights and state tort action arises from the use of deadly force by California Highway Patrol Officer Ramon Silva against Decedent John Alaniz (“Mr. Alaniz”) on May 4, 2022. Plaintiffs’ operative complaint asserts claims for (1) Excessive Force under the Fourth Amendment; (2) Battery; (3) Negligence; and (4) violation of the Bane Act. The primary issue in this case is whether Silva’s use of deadly force against Mr. Alaniz was excessive and unreasonable under the circumstances known to him at the time of the use of force.

10 Plaintiffs hereby bring this Motion *in Limine* to exclude any prior encounters  
11 police had with Mr. Alaniz. Plaintiffs anticipate that Defendants may attempt to  
12 present evidence and/or argument at trial that Mr. Alaniz had a prior encounter with  
13 the police where Mr. Alaniz allegedly ran at and was involved in a physical  
14 encounter with police officers where he was tased multiple times. Plaintiffs  
15 anticipate that Defendants may attempt to use this information to argue that Alaniz  
16 tried to commit “suicide by cop.” Plaintiffs further anticipate that Defendants may  
17 attempt to use this information to attempt to persuade the jury to determine that  
18 Silva’s use of force was reasonable.

19 Accordingly, by way of this Motion, Plaintiffs seek to exclude any evidence,  
20 testimony, argument, or reference at trial to any evidence or testimony that on  
21 October 14, 2021, Alaniz had a prior encounter with police officers unrelated to this  
22 case where Alaniz allegedly ran at a police officer, and was allegedly involved in a  
23 physical struggle with police officers in which one officer deployed their taser  
24 multiple times against Alaniz.

25 This Motion *in Limine* is based on several independent rationales. First, this  
26 evidence is irrelevant pursuant to Federal Rules of Evidence 401 and 402 because  
27 this evidence is immaterial to the issues to be decided by the jury in the instant case.

1 Second, this Motion is also made on the grounds that any reference to the October  
2 14, 2021, encounter with police is inadmissible character evidence under the Federal  
3 Rule of Evidence 404. Lastly, this evidence should be excluded under Federal Rule  
4 of Evidence 403 because it is unfairly prejudicial, confuses the issues, misleads the  
5 jury, and risks causing undue delay by creating a mini-trial on an unrelated matter,  
6 thereby wasting the Court's time.

7 **II. EVIDENCE OF MR. ALANIZ'S PRIOR ENCOUNTER WITH THE**  
8 **POLICE OR OTHER WRONG ACTS ARE IRRELEVANT AND**  
9 **SHOULD BE EXCLUDED UNDER FEDERAL RULES OF EVIDENCE**  
10 **401 AND 402**

11 “[E]vidence of other crimes or wrong acts is not looked upon with favor and  
12 must be carefully scrutinized to determine probative value.” *United States v. Aims*  
13 *Back*, 588 F.2d 1283, 1287 (9th Cir. 1986). Federal Rule of Evidence 401 defines  
14 “relevant evidence” as evidence having any tendency to make the existence of any  
15 fact that is of consequence to the determination of the action more probable or less  
16 probable than it would be without the evidence. Federal Rules of Evidence, Rule  
17 402, states in part that evidence which is not relevant is not admissible. Under  
18 *Graham v. Connor*, 490 U.S. 385, 397 (1989), evidence of facts and circumstances  
19 not known to the involved officers at the time of the use of force incident are  
20 irrelevant. *See also Palmquist v. Selvik*, 111 F.3d 1332, 1339 (7th Cir. 1997)  
21 (“[W]hen considering a charge of excessive force under the Fourth Amendment,  
22 evidence outside the time frame of the use of force is irrelevant and prejudicial.”).

23 In an excessive force case such as this, the relevant inquiry is whether the  
24 officer’s actions are “objectively reasonable”, thus it is the decedent’s actions during  
25 the incident, not his subjective state of mind, that is of consequence to whether the  
26 use of force was excessive. *Graham*, 49 U.S at 397; *Stringer v. City of Pablo*, No. C  
27 07-03544 MEJ, 2009 WL 5215396, at \*3 (excluding decedent’s criminal history and  
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1 potential third-strike if arrested because “Decedent’s motivation or intention to  
2 provoke the Officers to show him is not at issue. Rather, the key issue is Decedent’s  
3 actions leading up to the shooting.”)

4 At trial, the jury will be asked to look at the objective circumstances facing  
5 the deputies at the time of the incident and to consider factors such as “the type and  
6 amount of force used” and “[w]hether [Mr. Alaniz] posed an immediate threat to the  
7 safety of [Silva] or others.” Ninth Circuit Manual of Model Jury Instructions, 9.25  
8 (2017). Whatever other prior encounter with the police Mr. Alaniz may have had  
9 does not bear on any disputed fact or on any element of any claim or defense in this  
10 case. Indeed, Alaniz’s prior encounter with the police is not probative of the factual  
11 circumstances confronting Silva at the time of the shooting. Silva was not involved  
12 in the prior incident, and Silva had no knowledge of the incident. Accordingly, this  
13 evidence is irrelevant as to questions of Defendants’ liability for the violations of  
14 Mr. Alaniz’s rights under federal and state law. Because evidence of Mr. Alaniz’s  
15 prior encounter with the police is not probative of any fact of consequence of the  
16 determination of the action, this evidence should be excluded.

17 **III. REFERENCES TO MR. ALANIZ’S ALLEGED PRIOR ENCOUNTER  
18 WITH THE POLICE SHOULD BE EXCLUDED UNDER FEDERAL  
19 RULE OF EVIDENCE 404.**

20 The foregoing items of evidence Plaintiffs seek to exclude cannot be used to  
21 show that Mr. Alaniz acted in conformity with some general poor character during  
22 this incident. Rule 404(a)(1) specifically prohibits “[e]vidence of a person’s  
23 character or character trait . . . to prove that on a particular occasion the person acted  
24 in accordance with the character or trait.” Further, Ninth Circuit case law is clear  
25 that character evidence is not normally admissible in a civil rights case such as this  
26 one. *See Gates v. Rivera*, 993 F.2d 697, 700 (9th Cir. 1993). Character must be “in  
27 issue,” i.e., an element of a charge, claim, or defense for character evidence to be

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1 admitted. *See* Adv. Comm. Notes, Fed. R. Evid. 405(b); *United States v. Mendoza-*  
2 *Prado*, 314 F.3d 1099, 1103 (9th Cir. 2002).

3 Character is not an essential element to any claim or defense to be tried in this  
4 case. The issue to be resolved is whether Defendant Silva’s use of lethal force  
5 against Alaniz was objectively reasonable. Testimony or information that Alaniz ran  
6 at a police officer during a previous incident poses a danger that the jury will (1)  
7 improperly infer that Silva knew this information, (2) improperly infer that Alaniz  
8 had the propensity to engage in criminal or inappropriate conduct, including on the  
9 date of the subject incident, and (3) reach a verdict that is not based on the  
10 circumstances that Silva faced during the incident.

11 Plaintiffs anticipate that Defendants will seek to use this information as  
12 evidence of a propensity for violence or a desire of Alaniz to commit “suicide by  
13 cop.” In addition, Plaintiffs anticipate that Defendants will seek to use the  
14 information to imply that because Alaniz allegedly was tased multiple times in the  
15 prior encounter with the police. Rule 404(b)(1) prohibits “[e]vidence of any other  
16 crime, wrong, or act . . . to prove a person’s character in order to show that on a  
17 particular occasion the person acted in accordance with the character.”  
18 “Corroborating” evidence is propensity evidence. *See Palmerin v. Riverside*, 794  
19 F.2d 1409, 1414 (9th Cir. 1985) (excluding “any circumstantial evidence that  
20 requires an inference of a person’s character to make it relevant”). Introduction of  
21 Alaniz’s prior conduct with an uninvolved police officer serves no purpose other  
22 than to tarnish Alaniz’s character and persuade the jury that Alaniz acted a particular  
23 way in this case because of how he allegedly acted on a single previous date. *See,*  
24 *e.g., Rogers v. Harrell*, 2010 WL 2011145, at \*2 (E.D. Mich. May 19, 2010)  
25 (excluding plaintiff’s prior criminal history under Rules 401, 402, and 404(b), and  
26 noting that “the only reason the Defendant would seek to introduce evidence of  
27 Plaintiff’s prior convictions is to cast doubt on his character”). Such evidence is  
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1 exactly the type barred by Rule 404. Accordingly, this evidence should further be  
2 excluded under FRE 404.

3 **IV. EVIDENCE OF MR. ALANIZ'S PRIOR ENCOUNTER WITH THE**  
4 **POLICE SHOULD BE EXCLUDED UNDER FEDERAL RULES OF**  
5 **EVIDENCE, RULE 403.**

6 Even if the foregoing evidence has some probative value, it should be  
7 excluded under Federal Rules of Evidence, Rule 403 because it is highly prejudicial,  
8 poses a significant risk of consuming the jury, and would cause undue delay and  
9 waste of time. FRE 403 requires exclusion even of relevant evidence “if its  
10 probative value is substantially outweighed by the danger of . . . unfair prejudice,  
11 confusing the issues, misleading the jury, undue delay, wasting time, or needlessly  
12 presenting cumulative evidence.” Fed. R. Evid. 403. “Unfair prejudice” means an  
13 “undue tendency to suggest decision on an improper basis, commonly, though not  
14 necessarily, an emotional one.” *United States v. Hankey*, 203 F.3d 1160, 1172 (9th  
15 Cir. 2000); *See Larez v. City of Los Angeles*, 946 F.2d 630, 641 n5 (9th Cir. 1991)  
16 (noting that evidence is likely to inflame the jury if it tends to evoke a juror’s anger  
17 or punitive impulses).

18 Plaintiffs maintain that such references to the foregoing evidence are of no  
19 probative value to whether Defendant Silva’s use of force was reasonable. Any  
20 speculation that the prior incident makes it more likely that Defendant Silva’s use of  
21 deadly force was reasonable in this case is inappropriate. Moreover, any potential  
22 relevance to such speculation pales in comparison to the unduly prejudicial and  
23 misleading nature of the evidence. Inflammatory and misleading evidence and  
24 arguments about alleged and unrelated acts are solely designed to unduly prejudice  
25 Plaintiffs. Any jury presented with this prejudicial evidence will not be able to  
26 divorce this evidence from its verdict on liability. A limiting instruction would only  
27 serve to further highlight the evidence and lengthen its exposure to the jury. *See*

1 *Stringer*, 2009 WL 5215396, at \*3 (“Further, under Rule 403, the Court must  
2 balance the probative value of Decedent’s criminal history against its prejudicial  
3 effect. The Court agrees with Plaintiffs that any probative value the evidence has is  
4 substantially outweighed by the potential that the jury would consider such evidence  
5 beyond the purpose for which it would be admitted—*even with a limiting  
6 instruction.*”) (emphasis added).

7       Admission of such evidence also poses a substantial risk of leading to  
8 “litigation of collateral issues, thereby creating a side issue which might distract the  
9 jury from the main issues.” *Blancha v. Raymark Indus.*, 972 F.2d 507, 516 (3d Cir.  
10 1992); *Rockwell v. Yukins*, 341 F.3d 507, 513 (6th Cir. 2003) (en banc); *Arlio v.  
11 Lively*, 474 F.3d 46, 53 (2d Cir. 2007). Mr. Alaniz’s prior encounter with the police  
12 runs this precise risk because there is no probative value to such illusory references.  
13 The central factual dispute in this case is whether Defendant Silva’s use of force  
14 against Mr. Alaniz was reasonable. Refuting the inferences that Defendants may  
15 attempt to raise by referencing Mr. Alaniz prior encounter with police officers who  
16 are not involved in this matter will necessitate a mini-trial on collateral issues that  
17 have nothing to do with the central factual dispute in this case which will unduly  
18 consume this Court’s and the jury’s time.

19       For these reasons, the foregoing information should be excluded pursuant to  
20 Rule 403.

21 **V. CONCLUSION**

22       For the foregoing reasons, Plaintiffs respectfully request that this Court  
23 exclude any evidence, argument, testimony, or reference at trial that on October 14,  
24 2021, Alaniz had a prior encounter with police officers unrelated to this case where  
25 Alaniz allegedly ran at a police officer, and was allegedly involved in a physical  
26 struggle with police officers in which one officer deployed their taser multiple times  
27 against Alaniz.

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1                   Respectfully submitted,

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3 DATED: March 14, 2025

**LAW OFFICES OF DALE K. GALIPO**

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6 By:     /s/ Cooper Alison-Mayne

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Dale K. Galipo, Esq.

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Cooper Alison-Mayne

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Attorneys for Plaintiffs

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